

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Planning & Economic Development, Planning Division

**AGENDA DATE:** Public Hearing: November 8, 2011

**CONTACT PERSON/PHONE:** Providencia Velázquez, (915)541-4027, VelazquezPX@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 8

**SUBJECT:**

Discussion and action on an appeal by applicant regarding a decision rendered by the Historic Landmark Commission (HLC) in HLC case PHAP11-00030 at 1033 Upson, El Paso, Texas, on September 26, 2011 to deny a certificate of appropriateness application for the referenced property (**District 8**).

**BACKGROUND / DISCUSSION:**

See attached report.

**PRIOR COUNCIL ACTION:**

N/A.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Historic Landmark Commission reviewed case PHAP11-00030 on September 26, 2011 and recommended denial by a vote of 6-0.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** Mathew S. McElroy\_\_\_\_\_  
Deputy Director- Planning & Economic Development

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**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**PLANNING & ECONOMIC DEVELOPMENT  
PLANNING DIVISION**

**M E M O R A N D U M**

**DATE:** October 25, 2011

**TO:** The Honorable Mayor and City Council  
Joyce Wilson, City Manager

**FROM:** Providencia Velázquez, Historic Preservation Officer

**SUBJECT:** Appeal of Historic Landmark Commission decision regarding PHAP11-00030

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The Historic Landmark Commission (HLC), on September 26, 2011 voted 6-0 to **DENY** the certificate of appropriateness application for the legalization of exterior painting, completed without approval, for the home located at 1033 Upson within the Sunset Heights Historic District.

The HLC found that the proposal does not comply with the historic guidelines regarding the painting of original exposed materials and that the request was brought before Commissioners after the work had been completed. The Magoffin Historic District guidelines recommend the following:

- The natural color of originally exposed materials should be maintained.
- It is not appropriate to paint; stucco or spray texture on brick.
- It is recommended to clean brick never to paint over it.

**Attachments:** Appeal Letter, Staff Report

**APPEAL LETTER**

CITY CLERK DEPT.

**APPEAL TO THE CITY COUNCIL** 2011 OCT 10 PM 2:21

DATE: 10-10-2011

HONORABLE MAYOR AND CITY COUNCIL  
CITY OF EL PASO, TEXAS

DEAR MAYOR AND COUNCIL:

After a public hearing held on 9-26-, 2011, the

APPROPRIATENESS BOARD denied my request for

NOT REMOVING THE PAINT FROM THE BRICK BUILDING

legally described as: 26 SUNSET HEIGHTS E 60 FT OF 17  
TO 20 C6

1033 UPSON

I hereby request the City Council to review the decision of the APPROPRIATENESS

BOARD <sup>C#</sup> PHAP 11-00030 AND CONSIDER MY REQUEST

SET OUT ABOVE. I AM ATTACHING A LETTER SETTING FORTH MY

REASONS FOR BELIEVING THEIR DECISION TO BE IN ERROR.

MARK + MIKE Smith  
APPLICANT

ADDRESS

915-526-6363  
TELEPHONE NUMBER

Two (2) copies filed in City Clerk's Office on: \_\_\_\_\_

**APPEAL LETTER CONTINUED**

CITY CLERK DEPT.

2011 OCT 10 PM 2:51

After painting the brick at 1033 Upson, I was told to take the paint off. We went before the Appropriateness Board and was told the same thing. After checking how we should go about doing this we find that there is no certain way to do this without doing damage to the brick and mortar. We have enclosed a report from the painter, Color Works and a report from, Dorado Engineering, giving their take on removing the paint. We did not know you could not paint the brick, and saying this we also knew that you have to ask permission to paint. We made a mistake doing this but ask that you think about the building and what is best for it. We have also enclosed some comments from my neighbors who are property owners. We can not justify the fact that we painted the brick but ask that you not judge us on our last mistake. We like the neighborhood ,and always want to improve the properties we own. We will always ask for permission in the future that is a promise.

Mark Link  
MR SA

**APPEAL LETTER CONTINUED**

# ColorWorks

CITY CLERK DEPT.

2011 OCT 10 PM 2:51

Interior/Exterior Painting • Sheetrock • Taping  
Texture • Faux Painting • Wallpaper • Carpentry

**From: Colorworks**

11601 PELLICANO C-13

El Paso TX 79936

**Phone:** (915) 740-0575

**Fax :** (915) 351-1144

**Date: 9-28-11**

**To: To whom it may concern**

**Exterior 1033 Upson,**

The house was primed with a special masonry primer which seals and creates A bonding surface for the exterior finish top coat. Once the sealer coat has been Applied to the brick surface it penetrates into the pourous brick, there is no way This primer can be pressured washed nor sandblasted, without major damage to Brick and mortar underneath. It also has two coats of top exterior paint in addition to the Primer. If you may have any questions plz contact me

**Jose A Sida  
915 740 0575**

**APPEAL LETTER CONTINUED**



**COPY**

**DORADO ENGINEERING, INC.**

2717 E. Yandell El Paso, Texas 79903 (915) 562-0002 Fax (915) 562-7743

October 7, 2011

Mr. Mark Smith  
1033 Upson  
El Paso, TX 79903

CITY CLERK DEPT.  
2011 OCT 10 PM 2:51

**RE: 1033 Upson – Exterior Painting of Building**

To Whom It May Concern:

At the request of Mr. Mark Smith, Owner of the Building at 1033 Upson, I conducted a visual inspection of the recently painted the building. The following are my observations and recommendations. As per Mr. Mark Smith it is my understanding that the City of El Paso Historic Commission has ordered Mr. Mark Smith to remove the exterior paint on the portion of the building that has been painted without the proper permits from the Historic Commission and to restore it to the pre-painted conditions.

Based on my visit to the site and the many years of being extremely familiar with the sunset area by living and having relatives and property in the Sunset area I offer the following.

1. The exterior painting of the building has actually improved the ecstastic appearance of the building and the area.
2. The existing exterior condition of the building prior to the painting was in dire need of repair and attention.
3. The condition of the existing Brick prior to painting was showing sign of weather erosion and deterioration, the entire brick wall needed to be mortar repointed (brick joint repair).
4. The portion of the exterior walls that were painted with an epoxy type of paint, a paint that is used for durability, resistant to weatherization, chemical, chipping and chalking. Epoxy paint is a very strong paint to remove either by chipping, chemicals or by hand, perhaps the only way to remove epoxy paint will be by sand blasting. Sand blasting the walls to remove the epoxy paint is counter productive because sand blasting introduces other factors such as weakening the face of the existing brick which is old and extremely difficult to repair. Sand blasting is mainly used when the walls are being prepared for repairs such as rechaulking and painting.

It is my professional opinion that removing the epoxy paint from the exterior walls will damage the old brick and will have to be repainted anyway which will result in the cure being worse than the problem. I recommend that Mr. Mark Smith be given permission to finish paining his building because it is good for the building and the neighborhood.

Please advise if additional information is necessary.

Sincerley,  
Fermin Dorado, P.E.

s:\my files\1033 upson-mark smith\paint exterior.doc

1033 Upson

Page 1 of 1

From: Kelly Blough <congeosci@aol.com> CITY CLERK DEPT.  
To: mygolfdays <mygolfdays@aol.com> 2011 OCT 10 PM 2:51  
Subject: 1033 Upson  
Date: Fri, Oct 7, 2011 3:00 pm

Mark:

It was a pleasure talking with you today and I appreciate your interest in seeking the opinions of neighboring property owners in this matter. While I was pleased to see the repairs to the exterior of your property, it was disappointing to see the exterior brick being painted. Particularly as the brick is an unusual color and appeared to be in good condition. I am a supporter of historic preservation and restoration and believe that active preservation in a neighborhood improves quality of life and long term value. I chose to buy in a historic district for that reason.

I appreciate the situation your contractor has left you in, particularly if you now have to find a local contractor who can remove the coating without causing greater harm. If I were in this situation, I would speak with Mr. Doug Yost who serves as the Quality Assurance inspector for the historic building restorations at Fort Bliss. I think his number is (915) 545-5108. If that's not correct, let me know, as his office is near mine and I can get his card next week.

Kelly Blough  
1029 Upson  
915 276-3421

Fw: Oct 10, 2011

Page 1 of 2

**From:** David Tovar <datovar@sbcglobal.net>  
**To:** mygolfdays <mygolfdays@aol.com>  
**Subject:** Fw: Oct 10, 2011  
**Date:** Mon, Oct 10, 2011 8:07 am

CITY CLERK DEPT.  
2011 OCT 10 PM 2:52

Oct 10, 2011

Re: 1033 Upson Dr.

Dear Sir or Madam:

The purpose of this letter is to share with you information that will help you arrive at a decision in favor of Mark Smith, owner of the property mentioned above. Mark recently painted his property in an effort to improve the appearance and preserve the deteriorating brick that surrounds his home. He is now being asked to remove that paint as it does not conform with guidelines regarding historic homes in our area here in Sunset Heights.

We live in an historic brick home less than a block away. We purchased our home from Dolph and Dana Quijano 11 years ago. Our brick is painted over as well. When we purchased the home from Dolph and Dana, they shared that, in an effort to restore the home back to its original state, they looked into removing the paint from the brick but were advised against it by professionals who informed them that in order to do that, the paint would have to be sand-blasted. Professionals pointed that the brick underneath was very deteriorated and would likely crumble if the paint were removed and added that the brick's deterioration was likely the reason the brick had been painted in the first place. Dolph and Dana took the advice of professionals 24 years ago, and to this day, our home remains painted. We have maintained its upkeep, and our home is preserved and its brick in tact. We are very happy with the look of our home and hope you will agree that the paint does not detract from its integrity or the integrity of our neighborhood, and that in fact, it lends to the beauty of our neighborhood.

We kindly ask that you strongly consider these points, and side in favor of Mark. Painting his property was done in good faith in an effort to improve the look and soundness of his home. The house is painted beautifully and does not detract from its history. The paint will help preserve deteriorating brick for many years to come, as it has in our home. Removing the paint would not only be costly, but may actually ruin the brick causing it to crumble, adversely affecting the home's integrity and that of our neighborhood. Replacing or restoring brick would be highly cost prohibitive. We ask that you consider each of these circumstances in making your decision, and please add to that that Mark did not paint over brick that was in good condition, but rather painted over poorly worn brick.

Few have made an effort to help preserve the integrity of our beautiful neighborhood. Many homes are in disrepair, yards are not maintained, roofs have been left to fall apart. Mark is one of the few among us who care for this community, and like you, is making an effort to preserve it.

We hope our efforts have lent a perspective that will help you better understand Mark's decision, and we thank you for taking the time to consider our input.

Respectfully yours,

David and Noemi Tovar  
1108 Upson  
El Paso, Texas 79902

TOVAR  
P R I N T I N G

DAVID TOVAR  
645 WALLENBERG DR., SUITE A1 | EL PASO, TEXAS 79912  
C: 915.355.7418 O: 915.584-5900 F: 915-584.5904

<http://mail.aol.com/34188-111/aol-6/en-us/mail/PrintMessage.aspx>

10/10/2011



APPEAL LETTER CONTINUED

CITY CLERK DEPT.  
2011 OCT 10 PM 2:52

THE PROPERTY OWNERS AT 1033 UPSON WOULD  
LIKE YOUR OPINION ON THE WORK DONE  
TO THEIR BUILDING

LIKE

DISLIKE

NO OPINION

✓ - Doug Reed Property Owner - Sunset Heights  
Building looks better than before

I Joanne Villalobos live at 1032 Upson Dr.  
across the street from 1033 Upson & enjoy  
the color scheme. There is not much difference  
of color. It looks fine.

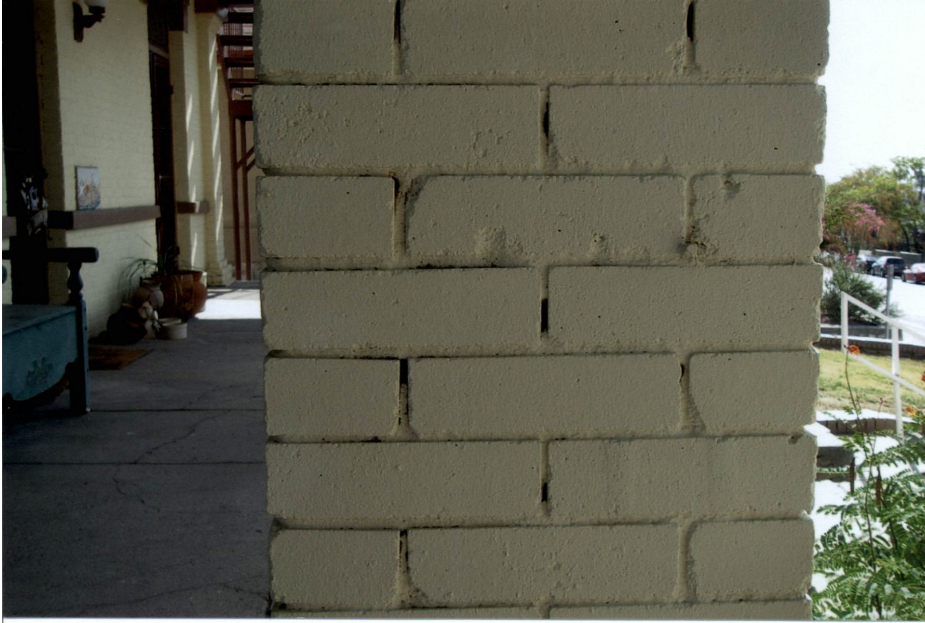
Joanne Villalobos



















## PHAP11-00030

**Date:** September 26, 2011  
**Application Type:** Certificate of Appropriateness  
**Property Owner:** Mark and Michael Smith  
**Representative:** Mark and Michael Smith  
**Legal Description:** Being Lot 26 Sunset Heights E 60 Ft Of 17 To 20 (6000 Sq Ft), City of El Paso, El Paso County, Texas.  
**Historic District:** Sunset Heights  
**Location:** 1033 Upson  
**Representative District:** #8  
**Existing Zoning:** R-4/H (Residential/Historic)  
**Year Built:** 1920  
**Historic Status:** Contributing  
**Request:** Certificate of appropriateness for the painting of the brick façade after-the-fact.  
**Application Filed:** 9/12/2011  
**45 Day Expiration:** 10/27/2011

### ITEM #3





**GENERAL INFORMATION:**

The applicant seeks approval for:

Painting of the brick façade after-the-fact.

**STAFF RECOMMENDATION:**

The Historic Preservation Office recommends DENIAL of the proposed scope of work based on the following recommendations:

*The Administrative Review Design Guidelines* recommend the following:

- That brick and stone not be painted.

*The Magoffin Historic District Design Guidelines* recommend the following:

- The natural color of originally exposed materials should be maintained. It is not appropriate to paint, stucco, or spray texture on brick.

*The Secretary of the Interior's Standards for Rehabilitation* recommend the following:

- The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features that characterize a property will be avoided.
- Distinctive materials, features, finishes, and construction techniques that characterize a property will be preserved.

## AERIAL MAP

